



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT
Attorney Docket No.: 020460-001000US

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On June 13, 2005

TOWNSEND and TOWNSEND and CREW LLP

By: 

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SIRHAN, MOTASIM et al.

Application No.: 10/017,500

Filed: December 14, 2001

For: APPARATUS AND METHODS FOR
VARIABLY CONTROLLED SUBSTANCE
DELIVERY FROM IMPLANTED
PROSTHESES

Customer No.: 20350

Examiner: PHAN, HIEU

Technology Center/Art Unit: 3738

**SECOND RENEWED PETITION
UNDER 37 CFR § 1.78**

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision mailed May 10, 2005 on the Renewed Petition,
Applicants respectfully request reconsideration of this Second Renewed Petition and
accompanying substitute amendment.

The Decision notes the grounds for dismissal as follows:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(I) and 1.78(a)(5)(I) of the prior-filed application....The petition fails to comply with item (1) above. A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on July 19, 2004 and again with the instant petition filed September 20, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications.

Decision, pages 1-2.

In order to expedite issuance of the present application, Applicants submit herewith a substitute amendment deleting the alleged improper incorporation by reference statements with respect to U.S. Provisional Patent Application No. 60/258,024; U.S. Patent Application No. 09/783,253; and U.S. Provisional Patent Application No. 60/308,381. Applicants point out that the present application, as filed, *expressly* incorporates by reference the full disclosure of U.S. Patent Application No. 10/002,595 on page 1, paragraph 1 of the originally filed application. Additionally, the present application, as filed, *expressly* incorporates by reference the full disclosure of U.S. Patent Application No. 09/782,927; U.S. Patent Application No. 09/783,254; U.S. Patent Application No. 09/782,804, on page 3, paragraphs 11 and 12 of the originally filed application. As such, no new matter has been introduced under 35 U.S.C. § 132. Applicants now believe all requirements have been met under 37 C.F.R. § 1.78(a)(3) and 37 C.F.R. § 1.78(a)(6) in the previously submitted Petition on July 19, 2004 and the substitute amendment filed herewith to accept an unintentionally delayed claim of domestic priority under 35 U.S.C. §§ 120 and 119(e).

SIRHAN, MOTASIM et al.
Application No.: 10/017,500
Second Renewed Petition under 37 CFR §1.78
June 13, 2005
Page 3

PATENT

In view of the foregoing, Applicants respectfully request that this Second Renewed Petition be granted. If it is believed that a telephone conference would expedite processing of this Petition, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nena Bains', with a stylized, flowing script.

Nena Bains
Reg. No. 47,400

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
NB:deb
60510773 v1